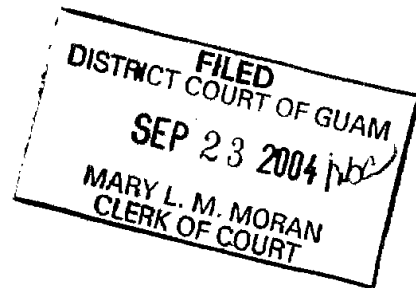


JOAQUIN C. ARRIOLA  
ANITA P. ARRIOLA  
JACQUELINE T. TERLAJE  
ARRIOLA, COWAN & ARRIOLA  
259 Martyr Street, Suite 201  
Hagåtña, Guam 96910  
Telephone: (671) 477-9730/33  
Facsimile: (671) 477-9734

Counsel for Plaintiffs Alan Sadhwani, et al.



285

IN THE UNITED STATES  
DISTRICT COURT OF GUAM

ALAN SADHWANI, LAJU )  
SADHWANI, and K. SADHWANI'S )  
INC., a Guam corporation, )  
Plaintiffs, )  
vs. )  
HONGKONG AND SHANGHAI )  
BANKING CORPORATION, LTD., a )  
Foreign corporation, JOHN DOE I )  
through JOHN DOE X, )  
Defendants. )

CIVIL CASE NO. 03-00036

**SUPPLEMENTAL DECLARATION  
OF ANITA P. ARRIOLA IN  
SUPPORT OF PLAINTIFFS'  
OPPOSITION TO DEFENDANT'S  
MOTION TO BIFURCATE TRIAL;  
EXHIBIT A**

ANITA P. ARRIOLA declares:

1. I am an attorney for the plaintiffs in the above-entitled action. I make this Supplemental Declaration in support of Plaintiffs' Opposition to Defendant Hongkong and Shanghai Banking Corporation, Ltd.'s Motion to Bifurcate Trial. I have personal knowledge of the facts contained herein.

2. Attached hereto as Exhibit A is a true and correct copy of a newspaper article that appeared in the Marianas Business Journal in the September 6, 2004 - September 19, 2004 edition. The undersigned counsel did not receive a copy of the journal until after plaintiffs' Opposition to the Motion to Bifurcate Trial was filed in this matter. In the article, Mr. Underwood, General Manager

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

for HSBC, is quoted as saying that "HSBC has achieved record profits in the first half of 2004." Marianas Business Journal, "HSBC lingers; loan portfolio still serviced", at 19.

3. Plaintiffs respectfully request that the Court allow the filing of this Supplemental Declaration and attached Exhibit A and that the Court consider Exhibit A in ruling on HSBC's motion to bifurcate trial.

I declare under penalty of perjury under the laws of Guam and the laws of the United States that the foregoing is true and correct.

Dated: September 23, 2004.

  
ANITA P. ARRIOLA

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

**CERTIFICATE OF SERVICE**

I, ANITA P. ARRIOLA, hereby certify that on September 23, 2004, I caused to be served via hand delivery, a **SUPPLEMENTAL DECLARATION OF ANITA P. ARRIOLA IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO BIFURCATE TRIAL;**  
**EXHIBIT A to:**

**Jacques G. Bronze, Esq.  
Bronze & Tang, P.C.  
2nd Floor, BankPacific Building  
825 S. Marine Drive  
Tamuning, Guam 96913**

Dated this 23rd day of September, 2004.

  
\_\_\_\_\_  
**ANITA P. ARRIOLA**

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

# HSBC lingers; loan portfolio still serviced

BY MAUREEN N. MARATITA

Journal Staff

The HongKong and Shanghai Banking Corp.'s links with Guam will not be severed while the bank continues its loan relationship with businesses on-island.

"There was never a fixed date. There was an aim to go when we could — but we have loans outstanding," said Christopher Underwood, manager for Guam and Saipan.

In fact the bank has maturity dates on loans of 2010 and 2011. "It could be as long as that," he said. "Certainly we have not been writing new business — to the detriment of the Guam economy." Underwood, who has been here since October 2000, did not anticipate he would remain in Guam until the closure of the bank's loan book.

At present, the bank has about 40 loan portfolios, totaling about \$150 million. Underwood said, "I believe my commercial book is still larger than Bank of Hawaii's — it was six months ago. About 80% of the facilities are with 20% of the clients."

Some of the loans are what the industry calls 'bad and doubtfuls.' The bank has what Underwood termed smaller clients, that it is "pursuing through the courts."

HSBC first entered the Guam market in 1975, and Saipan in 1996. While the bank serviced clients seeking loans, its relationship was legally limited to a lend-

ing relationship with its clients, to one branch, and was liable for a branch profits tax of 30%. Any ATM machine had to be within the bank's premises. Underwood said, "We were discriminated against since the day we opened." He said the conditions imposed on HSBC had favored local banks.

The bank could in theory have managed remaining clients from an Asian office such as its Hong Kong one, but other considerations came into play. "There are tax issues, there are cross-border risk issues — it opens you up to more risk if you are not on the premises."

Clients such as Mark V. Pangilinan Sr., founder and president of M.V.P. Enterprises Inc., had a constant and long-term loan facility with HSBC. While the company can perfectly well manage its cash flow, Pangilinan told the *Journal* that other banks on island were not easily able to provide an option that allowed MVP to consider certain extremely large business transactions.

"The local banks here — Bank of Guam, Bank of Hawaii — are limited to the amount they can lend to any single borrower. Our limits are far in excess of local banks. Therefore we could cater for the larger developer — of a hotel for instance. Rather than syndicate on-island, or off-island, they could come to one sin-



Leach

gle lender," Underwood said.

He said that the banking community had always acknowledged that other reasons made the bank's departure from Micronesia regrettable, he said.

"The other detriment is that it takes out a prospective lender from the market. When you were a large borrower, and you had the choice of First Hawaiian, Bank of Hawaii, and Bank of Guam — now you are down to three. Their single-borrower limit is larger than say, BankPacific and Citizens Security Bank. It also gives the local banks more problems, as there is more concentration of risk."

Banks in Guam have in fact assumed a number of HSBC's portfolios, the majority of which were commercial loans. "They got some very good borrowers," Underwood said.

HSBC continued to service its remaining clients, he said. "We continue to give them as much assistance as we can, but we are not doing any transactional business. Sadly, although you might be a client of ours, if you want a remittance, I'm not doing that any more."

The bank has been left with clients that other banks are unwilling to assume, he said, "for size reasons. There are half a dozen like that — close to the single borrower limit of other banks, or the appetite for that type of risk might be full. They

might not be writing any hotel risk, for instance — or car traders — they don't want to add more to their portfolio."

Ronald H. Leach, executive vice president of Bank of Hawaii, said, "We have a \$25 million limit to a single exposure." Leach said Guam banks such as Bank of Hawaii, First Hawaiian, and Bank of Guam had a couple of ways to save borrowers looking for a larger loan than each of the banks' single lending limit. The banks could syndicate on-island — although this had certain sensitivities as they were in competition. Alternatively, or in combination, he said, "The local institutions would go forward and find an off-island participant to buy a portion of the loan. We buy and sell loans with a group of institutions in the mainland all the time. We have loans in Guam that are participated outside of our institution. The key is to look for the banks that have the capacity to do what you want them to do."

Leach said both on- and off-island financial institutions had reviewed the HSBC portfolios.

"It's not the size of the credit that dictates whether the bank would take on the risk, it's the quality. In this instance it's not a matter of size, it's an issue of quality that is keeping those loans on HSBC's books."

The largest loan the bank carries is in the hotel industry. Underwood would not be more specific than to say the loan was "more than \$50 million, and

SEE HSBC LINGERS PAGE 19

**HSBC LINGERS:** "It's not the size of the credit that dictates whether the bank would take on the risk, it's the quality. In this instance it's not a matter of size, it's an issue of quality that is keeping those loans on HSBC's books."

CONTINUED FROM PAGE 4

under \$100 million."

The bank announced its closure in May 2002, and the Saipan office closed in October 2000. The bank had just under 100 employees in Guam and Saipan when the closure was announced. HSBC relocated in April 2003 to the East West Business Center with 17 employees, and now has seven staff including Underwood.

He said the bank's decision to close had not been taken lightly, and the bank had not closed because of the adverse economic conditions in Guam at the time. "The return on capital is one of the considerations when a decision to stay or leave is made, but I am not expecting to lose money this year — our branch in Saipan was profitable from Day 1." He said the majority of the residential portfolio had been sold numberwise to one bank. "The portfolio we have left in Saipan is managed here from Guam." Underwood said less than 12 clients

remained in Saipan.

Employees were given severance packages, and retraining assistance.

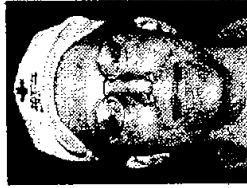
Underwood said, "When the closure was first announced we gave them what I would term very attractive packages. There was a phased departure until the end of 2002, and a second phased departure in 2003." Staff had degree courses paid for by HSBC. A core group the bank wanted to retain. "They don't know what day we are going to close down. We didn't want them to get up and go, so we gave them an increased salary, quarterly bonuses, and a notice period geared to their favor [three months notice from the employee; six months notice from the bank]." Staff that found a job well within that six-month period, Underwood said, still received the six-month payment, nor had staff been held to a three-month notice period.

The case against HSBC by Sandhwan's Inc. is due to be heard in January 2005.

HSBC has achieved record profits in the first half of 2004, Underwood said. ■

**GOOD GAS:** "The chemical reaction occurred when the gas hit the tank of certain brands of automobiles, because the newly-lowered sulfur — designed to burn cleaner — reacted with sil-

# Typhoon Chaba ravages Northern Mariana Islands



Typhoon Chaba, a Thai word for a delicate flower, was any but delicate as it roared through the Mariana Islands on Aug. 22.

Rota — the island nearest the 40-mile eye of the storm — suffered the most damage with 755 homes sustaining some form of damage or destruction. Benjamin Manglona, mayor of Rota, said power went out in all of the island, and that it could take as long as a month for it to be fully restored, as receiving supplies would be the most difficult part.

Tinian sustained considerable damage with 145 houses completely destroyed. The storm swept away buoys at the island's port. Those are needed in order to reopen, so supply boats can bring fuel and emergency equipment.

On Saipan, residents also felt the fury of Typhoon Chaba, where the storm displaced an estimated 1,000 people.

John I. Hirsh, executive director of the Northern Mariana Islands chapter of the American Red Cross, said, "This was a fairly bad one, the worst in the last five years." He estimated that the typhoon left 2,000 homes damaged — with roofs blown away, and flooding to properties. Hirsh said many residents in concrete houses had doors and windows either blown off or broken.

The eye of Typhoon Chaba passed 30 miles north of Rota; 40 miles southeast of Tinian, and 50 miles southeast of Saipan. The storm passed 85 miles to the North of Guam, spared much of its intensity.

While power in Guam stayed on almost throughout the storm, power cuts

to 97% of the the following day.

M i c h Middlebrook, meteorologist with National Weather Service, said wind Rota were measured at 136 miles per hour the height of the and that 12.36 inches of rain fell there.

Hirsh

Officials from Guam, including Felix P. Camacho and William Lokey, representative of the Federal Emergency Management Agency, set off from Guam the afternoon of Aug. 24 for Saipan International airport, but were prevented from landing by still torrential rain and wind.

Guam and the CNMI have a standing mutual agreement to help another in times of natural disaster. Guam dispatched Guam Power Authority crews on Aug. 26 to assist in the efforts.

Lokey said a presidential declaration of emergency for the CNMI was received Aug. 26, thereby opening up the federal disaster relief funds and programs.

Dale Shepardson, operations manager of the U.S. Coast Guard Marianas, said the Port of Saipan opened Aug. 26, the Port of Tinian Aug. 28, and the Port of Rota Aug. 31. iConnect restored its system, services Guam, Rota, Tinian and Saipan Aug. 26. The iConnect capacity in Rota was expanded to accommodate